

**REMARKS BEFORE THE SENATE BUDGET AND  
APPROPRIATIONS COMMITTEE  
BY JUDGE GLENN A. GRANT, ACTING  
ADMINISTRATIVE DIRECTOR OF THE COURTS**

Hearing Date: Thursday, May 4, 2017

Good morning, Chairman Sarlo and other members of the Senate Budget and Appropriations Committee.

With me today are Assignment Judges Yolanda Ciccone, Ronald Bookbinder, Peter Bariso Jr., Karen Cassidy, Stuart Minkowitz, and Bonnie Mizdol, as well as the director of our Office of Management and Administrative Services, Shelley Webster, and the director of our Information Technology Office, Jack McCarthy.

We welcome this opportunity to appear before you today and update the Senate on the continuing efforts of the state's judicial branch of government.

As always, on behalf of Chief Justice Stuart Rabner and the Justices of the Supreme Court, I want to publicly acknowledge the outstanding work of the judges in all of our courts – the Appellate Division, Superior Court, the Tax Court, and the Municipal Courts – and all of our Judiciary employees who make sure our court system operates efficiently, effectively, and independently. Their collective efforts reflect our strong commitment to the core values and principles that guide the New Jersey Judiciary. On a daily basis, they act as wise and prudent stewards of the public resources allocated to the operation of the courts.

Before I get too far into my remarks, I would like to thank the Legislature and the Governor for approving the legislation that soon will provide 20 additional judgeships to help handle the anticipated judicial needs resulting from the speedy trial aspect of Criminal Justice Reform. Even with the recent significant reduction in the number of judicial

vacancies, those 20 additional judgeships are essential to meeting the time frames set forth in the Criminal Justice Reform statute.

While Criminal Justice Reform has been a primary focus for the courts for much of the past year, I first would like to mention the major strides that the Judiciary continues to make in building on our eCourts framework. During the past year, we have expanded eCourts availability in the Criminal, Civil and Family Divisions, in the Tax Court, in the Appellate Division, and in the Supreme Court. In Civil, we have replaced the Judiciary Electronic Filing and Imaging System (“JEFIS”) that was used for Special Civil Part cases and Foreclosure cases. The Civil Law project will be operational within the next couple of months. There now is mandatory eFiling in the Tax Court, and non-attorneys, such as Municipal Assessors, Municipal Clerks and County Boards of Taxation, can access the Tax Court electronic case jacket and receive notifications electronically when a new case or a judgment is created.

Additionally, work is underway for the various Family court dockets to convert to electronic case files, and the Appellate Division has expanded its eCourts application. We have continued with these improvements while at the same time devoting essentially our full attention to the most significant changes to the criminal justice system in generations.

**Criminal Justice Reform.** As you know, Criminal Justice Reform became a reality on January 1, 2017. This was an historic change built on the partnership of all three branches of government, law enforcement and the public. Together, we created a fairer justice system that includes comprehensive bail reform, preventive detention, a new pretrial services program to monitor defendants on pretrial release, and new speedy trial requirements. So far, the transition has been effective in reaching the Reform’s initial goals.

As should be expected, we have experienced some challenges during the first few months of implementation. However, when you consider that we have replaced a system that stood for more than 70 years, the transition has been remarkably smooth.

I would like to address the issues that some have raised in the first four months of Criminal Justice Reform.

Criminal Justice Reform represents a strong partnership among all three branches of government – with the foundation for this initiative established by the Joint Committee on Criminal Justice chaired by Chief Justice Rabner. Building on that foundation, legislation adopted by the Legislature and the Governor, and a constitutional amendment overwhelmingly approved by the voters have provided the framework for this reform. The shared goal of this set of reforms is a system in which decisions regarding pretrial detention and pretrial release are based on the risk that a defendant poses to the community and the likelihood that the defendant will or will not show up for court.

Before January 1, we had a pretrial release system predicated on access to money. Defendants were detained or released based upon their ability to make cash bail. Today, under Criminal Justice Reform, we have a pretrial release system that relies substantially on a scientifically validated objective risk assessment tool – the Public Safety Assessment or PSA. That tool looks at the defendant's criminal history, along with current and pending charges, to determine the likelihood that a defendant will commit a new crime while out on release or will fail to appear in court on the scheduled date.

It is important to remember that no criminal justice release system can absolutely guarantee that every defendant released pretrial will obey the law or and will show up for court. The former system of cash bail certainly offered no such guarantee. Under that approach, virtually all defendants were entitled to bail, and defendants who were able to post bail, regardless of their risk either to reoffend or to fail to appear in court, were released back into the community with no monitoring whatsoever.

Under Criminal Justice Reform, we have removed money from the equation and instead have an honest and direct conversation about whether a defendant is a risk to the community. For the first time,

prosecutors can now file motions seeking to have high-risk defendants held until trial. For the first time, judges can decide to release defendants for monitoring by a newly created pretrial services unit until trial. And, for the first time, low-risk defendants no longer have to linger in jail for months at a time because they cannot afford to post even modest amounts of bail.

I described the PSA as a proven risk assessment tool, one that examines objective factors and makes scientific recommendations regarding a defendant's risk level. However, even with the PSA recommendation in hand, our judges are still the ones that make the final decision about pretrial release. The difference is that now the judges have more objective data to consider when making their release decisions.

Data collection and analysis is critically important to this program. The development of enhanced data collection and reporting necessary to support and assess the program has been complicated by several factors. First, it was necessary to give first priority to the development of the interface between the PSA application and the new eCourts system. Second, we were unable to collect real data on the various aspects on the program until January 1 when the law came into effect. And, third, our method of counting criminal matters prior to January 1 was to count cases, not defendants, which is new to the system.

As I advised the Assembly Budget Committee last week, we have been engaged in a rigorous effort to clearly define the data elements and ensure the accuracy and reliability of the information. We now are in a position to release the attached reports presenting data covering the first three months of Criminal Justice Reform.

As those reports show, from January 1 through March 31 we have processed 10,193 eligible defendants. Preventive detention has been ordered for 12.4 % or 1262 of those defendants, at the rate of about 55% of the pretrial detention motions filed by prosecutors. 8674 defendants were given pretrial release (roughly 85% of the total), with 1095 of those released on their own recognizance. The remaining 7579 defendants

were given pretrial release with varying levels of conditions, including regular reporting requirements and, in appropriate cases, home detention or electronic monitoring. Those defendants are being monitored by the newly created Pretrial Services units, which have 173 staff authorized statewide. As of March 31, only 8 defendants had been given bail as a condition of their release.

We are also now seeing the development of Criminal Justice Reform case law by both the Appellate Division and the Supreme Court. For example, a recent Appellate Division decision clarified that a judge in making the release or detain decision must consider not only the PSA recommendation, but also other relevant factors, such as a defendant's juvenile history. We expect the continued development of case law interpreting the new statute and the accompanying rules and procedures.

There are of course some valid and understandable concerns raised with respect to how the program operates in certain situations. We are still in the embryonic stages of the program and need to be careful in making any changes before the program has been fully implemented. We think that the hallmark of the program has to be that it is based on objective data. New Jersey's PSA is based on a national model and every jurisdiction that uses the model has some slight differences in how they categorize crimes. But the PSA is not a static instrument and we have asked the Arnold Foundation to examine a number of categories that could result in refinements to the PSA, including: juvenile history, domestic violence, gun charges and re-arrest while on pretrial release. Last week we had a productive meeting with representatives of the Arnold Foundation, the Attorney General's Office, and the Public Defender to examine these very issues. We will be reviewing data from the Arnold Foundation's consultant relating to those possible refinements.

The foundation of this sweeping reform is based on five pillars – the legislation and constitutional amendment, the Attorney General's directive, the PSA, the Decision Making Framework (DMF), and the development of case law. As required by the legislation, the PSA and

DMF rely on objective quantifiable data and therefore cannot be changed without proper research and consideration. We have been advised that, based on the meeting last week, the Attorney General is exploring modification to their directive. Additionally, the Legislature has within its power the authority to make changes to the legislation. However, we strongly recommend that any changes to the directive or to the legislation also should be based on objective data.

There also are operational challenges ahead in the near future as well, with the time limits for the new Speedy Trial law just now kicking in for defendants detained pretrial under the new law. Under speedy trial, grand jury indictments must be returned or unsealed within 90 days of arrest and trials must start within 180 days after the return or unsealing of indictment. The speedy trial portion of the statute also sets out 13 categories of excludable time that do not count against the time limits.

Technology is playing a crucial role in this effort. We have developed a state of the art application to assist prosecutor, law enforcement, and the judges in meeting the statutorily mandated timeframes for Criminal Justice Reform.

Sufficient funding, of course, remains an overriding concern. Right now, the Criminal Justice Reform funding stream relies entirely on the increases in court filing fees that the Legislature authorized. Last year, though, filings were down and therefore, as might be expected, revenue from those fees dropped as well.

If these filing trends continue, we project that starting with FY 2019, the Pretrial Services Program will begin to experience an actual deficit, not just the structural deficit that we already are facing. In other words, we project that we will have exhausted all of the program's carryover balances from prior fiscal years and that the fee revenue will fall short, thereby leaving an unfunded negative balance.

In that regard, we continue to urge the Legislature to consider switching from the current fee-based funding structure and instead fund Criminal

Justice Reform from regular state appropriations. Fees collected for the program would then be deposited directly into the State Treasury and the program would be funded through a budget appropriation.

Aside from our efforts involving Criminal Justice Reform and technology, the Judiciary has continued its decades-old collaboration and partnership with the other two branches of government in tackling some of the most intractable problems confronting our communities in New Jersey.

In the interest of time, I will highlight just one.

The Drug Court program continues to serve as a notable example of how partnership among the three branches of government can improve lives, can save lives. Mandatory drug court, created by the Legislature and the Governor, is now active in all but three vicinages, with those last three vicinages scheduled to start in July. The number of offenders mandated to participate in the program has increased by 30 percent over the last year. Just as in years past, we continue to see much smaller re-arrest rates, reconviction rates and re-incarceration rates for adult drug court graduates as compared to adult offenders released from state prison.

We would like to express our appreciation to the Governor and the members of the Legislature for their continued support of New Jersey's courts. The New Jersey Judiciary is an extraordinary organization that performs an important role in helping to maintain an orderly and vibrant society. We do that by being a court system focused on the just resolution of disputes filed in our courts. Our ability to perform this important task is made possible through collaboration and partnership with the other two branches of government. This committee's assistance and support highlight that long history of collaboration and partnership.

With that, I thank you for your time today and I would be happy to answer any questions you may have.

These numbers provide a preliminary summary of Criminal Justice Reform data. Statistics continue to be reviewed, revised, and validated.

Chart A  
Initial Release Decisions for Criminal Justice Reform Eligible Defendants  
January 1 - March 31, 2017  
Preliminary Statistical Report

	Defendants	Addressed Prior to Initial Release Decision (i.e., Remand or Dismissal)	Defendants Ordered to Pretrial Monitoring System															Detention		Other Matters Pending Resolution	
			Monitoring Level																		
			ROR		PML1		PML2		PML3		PML3+										
			#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%			
Atlantic	231	0	0.0%	26	11.3%	32	13.9%	34	14.7%	33	14.3%	47	20.3%	55	23.8%	4	1.7%				
Bergen	519	4	0.8%	131	25.2%	133	25.6%	71	13.7%	101	19.5%	41	7.9%	34	6.6%	4	0.8%				
Burlington	593	3	0.5%	95	16.0%	101	17.0%	74	12.5%	181	30.5%	56	9.4%	82	13.8%	1	0.2%				
Camden	1,169	5	0.4%	211	18.0%	119	10.2%	153	13.1%	352	30.1%	188	16.1%	126	10.8%	15	1.3%				
Cape May	169	2	1.2%	22	13.0%	43	25.4%	18	10.7%	26	15.4%	24	14.2%	32	18.9%	2	1.2%				
Cumberland	293	3	1.0%	11	3.8%	55	18.8%	43	14.7%	95	32.4%	42	14.3%	44	15.0%	0	0.0%				
Essex	1,449	11	0.8%	68	4.7%	418	28.8%	187	12.9%	387	26.7%	232	16.0%	131	9.0%	15	1.0%				
Gloucester	379	3	0.8%	33	8.7%	53	14.0%	54	14.2%	148	39.1%	57	15.0%	30	7.9%	1	0.3%				
Hudson	961	7	0.7%	99	10.3%	163	17.0%	182	18.9%	263	27.4%	98	10.2%	73	7.6%	76	7.9%				
Hunterdon	55	0	0.0%	4	7.3%	17	30.9%	7	12.7%	10	18.2%	5	9.1%	9	16.4%	3	5.5%				
Mercer	784	2	0.3%	167	21.3%	207	26.4%	116	14.8%	193	24.6%	16	2.0%	82	10.5%	1	0.1%				
Middlesex	523	4	0.8%	26	5.0%	127	24.3%	63	12.0%	129	24.7%	101	19.3%	69	13.2%	4	0.8%				
Monmouth	795	6	0.8%	46	5.8%	221	27.8%	110	13.8%	142	17.9%	175	22.0%	84	10.6%	11	1.4%				
Morris	253	4	1.6%	14	5.5%	63	24.9%	50	19.8%	50	19.8%	20	7.9%	49	19.4%	3	1.2%				
Ocean	449	4	0.9%	19	4.2%	116	25.8%	58	12.9%	93	20.7%	88	19.6%	61	13.6%	10	2.2%				
Passaic	757	2	0.3%	48	6.3%	210	27.7%	138	18.2%	137	18.1%	45	5.9%	157	20.7%	20	2.6%				
Salem	93	2	2.2%	7	7.5%	19	20.4%	14	15.1%	23	24.7%	14	15.1%	14	15.1%	0	0.0%				
Somerset	162	0	0.0%	9	5.6%	62	38.3%	21	13.0%	34	21.0%	7	4.3%	25	15.4%	4	2.5%				
Sussex	58	4	6.9%	5	8.6%	9	15.5%	10	17.2%	11	19.0%	6	10.3%	11	19.0%	2	3.4%				
Union	395	3	0.8%	48	12.2%	115	29.1%	30	7.6%	105	26.6%	15	3.8%	74	18.7%	5	1.3%				
Warren	106	1	0.9%	6	5.7%	28	26.4%	15	14.2%	21	19.8%	9	8.5%	20	18.9%	6	5.7%				
State	10,193	70	0.7%	1,095	10.7%	2,311	22.7%	1,448	14.2%	2,534	24.9%	1,286	12.6%	1,262	12.4%	187	1.8%				

Note: This report is based on defendant which is defined as a Criminal Justice Reform eligible defendant with CDR2 warrants filed within three days of each other for the defendant.



These numbers provide a preliminary summary of Criminal Justice Reform data. Statistics continue to be reviewed, revised, and validated.

Chart B - Detention  
Supplemental Detention Statistics  
Activity for Criminal Justice Reform Eligible Defendants  
Following the Initial Release Decision of Detention  
January 1, 2017 to March 31, 2017  
Preliminary Statistical Report

Defendants Ordered to Detention in January 1, 2017 - March 31, 2017 (Chart A)	1,262
January 1, 2017 - March 31, 2017 Activity of Defendants Ordered to Detention	
Defendants in Detention on March 31, 2017	879
Defendants in Monitoring on March 31, 2017	
ROR	11
PML1	27
PML2	32
PML3	110
PML3+	75
Subtotal	255
Dispositions from Promis/Gavel in January 1, 2017 - March 31, 2017	
Transferred	2
Merged	14
Remanded	77
Dismissed	2
Guilty	33
Subtotal	128
Total	1,262

These numbers provide a preliminary summary of Criminal Justice Reform data. Statistics continue to be reviewed, revised, and validated.

**Chart C**  
**Detention Motions for Criminal Justice Reform Eligible Defendants**  
**Granted, Denied, and Withdrawn**  
**January 1, 2017 - March 31, 2017**  
**Preliminary Statistical Report**

	Granted Motions for Defendants		Denied Motions for Defendants		Total Decisions for Defendants		Motions Withdrawn or Dismissed for Defendants		Total of Decisions and Motions Withdrawn or Dismissed for Defendants	
	number	Percent of Decisions	number	Percent of Decisions	number	Percent of Total	number	Percent of Total	number	
Atlantic	55	48.2%	59	51.8%	114	92.7%	9	7.3%	123	
Bergen	34	69.4%	15	30.6%	49	76.6%	15	23.4%	64	
Burlington	82	58.6%	58	41.4%	140	76.9%	42	23.1%	182	
Camden	126	41.9%	175	58.1%	301	71.7%	119	28.3%	420	
Cape May	32	47.1%	36	52.9%	68	82.9%	14	17.1%	82	
Cumberland	44	67.7%	21	32.3%	65	55.1%	53	44.9%	118	
Essex	131	49.8%	132	50.2%	263	68.7%	120	31.3%	383	
Gloucester	30	24.2%	94	75.8%	124	73.8%	44	26.2%	168	
Hudson	73	78.5%	20	21.5%	93	53.8%	80	46.2%	173	
Hunterdon	9	90.0%	1	10.0%	10	90.9%	1	9.1%	11	
Mercer	82	78.8%	22	21.2%	104	69.3%	46	30.7%	150	
Middlesex	69	61.6%	43	38.4%	112	58.0%	81	42.0%	193	
Monmouth	84	72.4%	32	27.6%	116	85.9%	19	14.1%	135	
Morris	49	87.5%	7	12.5%	56	66.7%	28	33.3%	84	
Ocean	61	48.8%	64	51.2%	125	76.7%	38	23.3%	163	
Passaic	157	54.5%	131	45.5%	288	92.0%	25	8.0%	313	
Salem	14	29.2%	34	70.8%	48	76.2%	15	23.8%	63	
Somerset	25	59.5%	17	40.5%	42	87.5%	6	12.5%	48	
Sussex	11	73.3%	4	26.7%	15	75.0%	5	25.0%	20	
Union	74	73.3%	27	26.7%	101	87.1%	15	12.9%	116	
Warren	20	90.9%	2	9.1%	22	55.0%	18	45.0%	40	
State	1,262	55.9%	994	44.1%	2,256	74.0%	793	26.0%	3,049	

Note: This report is based on defendant which is defined as a Criminal Justice Reform eligible defendant with CDR2 warrants filed within three days of each other for the defendant.

Table includes complete motions that were granted, denied, withdrawn or dismissed.